REMARKS

Reconsideration and withdrawal of the rejections of this application and consideration and entry of this paper are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance or into better condition for appeal.

I. STATUS OF CLAIMS AND FORMAL MATTERS

Claims 10-14 and 16-23 are pending. Claim 20 and the specification are amended without prejudice.

No new matter is added.

It is submitted that these claims are patentably distinct from the documents cited by the Examiner, and that these claims are in full compliance with the requirements of 35 U.S.C. §112. The amendment to the claims and remarks made herein are not for the purpose of patentability within the meaning of 35 U.S.C. §§ 101, 102, 103 or 112; but rather the amendments and remarks are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

Support for the amended recitation in claim 20 is found throughout the specification, e.g., on page 11, lines 13-16.

II. OBJECTION TO THE SPECIFICATION

The specification was objected to for allegedly introducing new matter. The objection is traversed. The amendment to the specification, without prejudice, has rendered the objection moot.

Consequently, reconsideration and withdrawal of the objection are respectfully requested.

III. 35 U.S.C. §103 REJECTIONS

Claims 10-14 and 17-20 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 5,532,030 to Hirose et al. in view of U.S. Patent No. 3,786,221 to Silverman or U.S. Patent No. 3,900,120 to Sincock and U.S. Patent No. 5,702,665 to Valyi, U.S. Patent No. 4,325,797 to Hale et al. or U.S. Patent No. 4,285,657 to Ryder. Claim 16 was rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 5,532,030 to Hirose et al. in view of U.S. Patent No. 3,786,221 to Silverman or U.S. Patent No. 3,900,120 to Sincock and U.S. Patent No. 5,702,665 to Valyi, U.S. Patent No. 4,325,797 to Hale et al. or U.S. Patent No. 4,285,657 to Ryder and further in view of U.S. Patent No. 5,556,920 to Tanaka et al. Claims 21 and 22 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 5,532,030 to Hirose et al. in view of U.S. Patent No. 3,786,221 to Silverman or U.S. Patent No. 3,900,120 to Sincock and U.S. Patent No. 5,702,665 to Valyi, U.S. Patent No. 4,325,797 to Hale et al. or U.S. Patent No. 4,285,657 to Ryder and further in view of U.S. Patent No. 4,442,147 to Schirmer and U.S. 2002/0037393A1 to Strobel et al. And claim 23 was rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 5,532,030 to Hirose et al. in view of U.S. Patent No. 3,786,221 to Silverman or U.S. Patent No. 3,900,120 to Sincock and U.S. Patent No. 5,702,665 to Valyi, U.S. Patent No. 4,325,797 to Hale et al. or U.S. Patent No. 4,285,657 to Ryder. The rejections will be collectively addressed and respectfully traversed.

Applicants respectfully assert that the present invention is distinguishable from the cited documents for the reasons of record, which are expressly incorporated herein by reference. Further, even assuming, *arguendo*, that a showing of *prima facie* obviousness could be made, which Applicants in no way concede, the instant invention exhibits unexpected results and superiority over the art and, thus, rebuts any holding of *prima facie* obviousness. Applicants

have discovered that if the stretch ratio is too low, the elongation at break is under 3% and, in turn, is also too low. On the other hand, if the stretch ratio is too high, the puncture resistance is also too high. *Compare, e.g.,* Examples 1-5 *with* Examples 6-8.

A film according to the presently claimed invention, by contrast, has superior "balanced" properties, such as low water permeation combined with low puncture resistance combined with good commercial processability. *See, e.g.,* Examples 6-8. Contrary to the Examiner's allegations, the preceding is not mere optimization but, instead, unexpected and superior results which cannot be extrapolated from the cited documents. Applicants must respectfully reiterate that "obvious to try" is not the standard upon which an obviousness rejection should be based. *See In re Fine.* And as "obvious to try" would be the only standard that would lend the Section 103 rejections any viability, the rejections must fail as a matter of law.

The Examiner appears to be arguing that the cited documents inherently teach or suggest the instantly claimed invention. Applicants disagree and respectfully point out that the Federal Circuit is clear that " 'inherency...may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient [to establish inherency].' " *Continental Can Company v. Monsanto Company*, 948 F.2d 1264, 1269 (Fed. Cir. 1991), *citing to In re Oelrich*, 666 F.2d 578, 581-582 (C.C.P.A. 1981). Indeed, "before a reference can be found to disclose a feature by virtue of its inherency, one of ordinary skill in the art viewing the reference must understand that the unmentioned feature at issue is *necessarily* present in the reference." *SGS-Thomson Microelectronics, Inc. v. International Rectifier Corporation*, 31 F.3d 1177 (Fed. Cir. 1994) (emphasis in original). The cited documents fail this standard.

There is no combination of the cited documents which expressly or inherently teaches or suggests the instantly claimed invention. Moreover, none of the references teaches or suggests

the surprising properties of the presently claimed invention, as shown in the application, which properties, Applicants submit, are additionally demonstrative of the patentability of the instant invention.

Consequently, reconsideration and withdrawal of the Section 103 rejections are respectfully requested.

CONCLUSION

In view of the amendments and remarks herewith, and those on record, the present application is in condition for allowance or in better condition for appeal. Early and favorable reconsideration and prompt issuance of a Notice of Allowance are earnestly solicited. If any issue remains as an impediment to allowance, an interview is respectfully requested and the Examiner is urged to contact the undersigned by telephone to arrange a mutually convenient time and manner for the interview.

Respectfully submitted,
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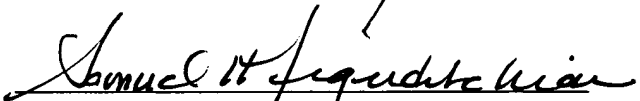
By: 

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